**NEEDHAM PLANNING BOARD MINUTES**

**January 4, 2011**

The regular meeting of the Planning Board held in the Charles River Room, first floor of the Public Services Administration Building, was called to order by Ron Ruth, Chairman, on Tuesday, January 4, 2011 at 7:30 p.m. with Messrs. Warner and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman.

Mr. Ruth announced there would be no testimony taken on the In-Lieu Parking Fee Schedule this evening as the hearing was closed at the last meeting. They would be deliberating this tonight. Also, the theater block hearing scheduled for 8:00 p.m. will be rescheduled for a date in January. Louis Wolfson asked if they would be able to voice concerns with regards to the In-Lieu parking. Mr. Ruth stated it was made clear at the last hearing they would be closing the hearing and there would be no further testimony taken. He stated they would be deliberating only at this meeting. Ruby Iantosca questioned why it was not possible to set another date for concerns. Mr. Ruth reiterated there have been several nights of public hearing and they have taken quite a bit of testimony. They have closed the hearing and it would be very involved to reopen the hearing and take further testimony. He invited all to stay and listen to the deliberations but made it clear the hearing would not be reopened. He was asked if there was a reason it was being deliberated tonight. Mr. Ruth stated it was made clear at the last meeting it would be deliberated tonight. He was asked if the decision was already made pertaining to the theater site. Mr. Ruth clarified the public hearing has not even been closed yet and is still open for discussion. They anticipate at the next meeting they will receive revised plans on that proposal. Deliberations will be made after all testimony has been received and the hearing closed. Mr. Cox noted this was like putting the cart before the horse. Ms. McKnight clarified they are deliberating on the in-lieu of parking fee tonight not the theater block site. Mr. Ruth reiterated no further testimony will be heard on the in-lieu of parking fee. Ms. Iantosca stated the issue is that now the public has become aware of this issue and it does not really make sense. She feels the hearing should be re-opened and discussion should continue.

**7:30 p.m. – Amendment to Major Project Site Plan Review No. 05-08: Yeat, Inc., d/b/a Sweet Basil, Dave Becker, President, 942 Great Plain Avenue, Needham, Massachusetts, Petitioner (Property located at 936-942 Great Plain Avenue, Needham, MA).**

Dave Becker noted he had met with the Board in May. He has hired Vanasse Hangen Brustlin, Inc. for a professional parking study and he had Saturday surveyed as requested by the Board. He would like to discuss the findings and ask them to reconsider letting him open both sides at lunchtime. He is very busy and he has to deal with irate people who have come to the restaurant to find it not open at lunch.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to waive the reading of the public hearing notice.

Mr. Ruth gave a brief overview of this. He noted Mr. Becker would like to expand to the whole restaurant at lunch and was turned down by the Board. He is now back with new information. Ruth Bonsignore, of Vanasse Hangen Brustlin, Inc., noted she lives near Sweet Basil so she is knowledgeable with regard to the downtown. She has been a professional engineer for close to 28 years.

Ms. Bonsignore noted they did a study of 2 areas of parking in downtown. They studied Great Plain Avenue from Greens Field to the Chestnut Street area. Also, they studied Great Plain down to Maple as well as the Chapel Street lots. She noted they inventoried all the parking spaces. At the time there were a number of spaces that were out of commission. These numbers are not reflected in their numbers. Ms. Bonsignore noted parking peaks around 12:30. There were 35 available spaces at that peak time in downtown and 47 spaces available towards the Post Office. She commented that on most days of the week Mr. Becker was able to accommodate all the lunchtime patrons but there were one or 2 times per week when he had to turn people away due to the lunchtime seating limitations. She feels this is important. People will not wait at lunchtime. The potential need is for 10 more spaces and their study shows they are well within the available mid-day limit to reopen the other half of the restaurant during lunch.

Ms. McKnight stated they anticipate Town Hall reopening and parking will be necessary. She asked if in their parking study they took into account the demand that will be generated by the reopening of the Town Hall as reflected in the previous parking study. Ms. Bonsignore stated she did not take into account the reopening of Town Hall but also did not consider parking spaces that are off line as of now so there is a limited supply that has not been taken into account. The area that is defined as within the downtown area includes the Chapel Street lot. They found some spaces available in this lot during the day but it did fill up right around 12:30. She noted the spaces that were counted in this inventory were only the designated 2 hours spaces. The rest were not considered in this inventory.

Mr. Ruth noted the following correspondence: an e-mail from the Board of Health, dated 12/22/10, with no objections; a letter, dated 12/16/10, from Jane Cunniff Lepardo encouraging the grant of the relief; an e-mail from Police Chief Thomas Leary noting concerns with sufficient parking; an e-mail from Fire Chief Paul Buckley, dated 1/3/11, with no comments or objections; an e-mail from Anthony DelGaizo of the DPW, dated 1/4/11, with no objections or comments; an e-mail from Carol McShane encouraging the relief; and a request from David Becker, dated 1/4/11, requesting a waiver of the filing fee.

Mr. Becker informed the Board he was instituting a carpool bonus program for his staff which will give cash incentives for carpooling. Ruby Iantosca stated she misses Sweet Basil being open for lunch. She has been a loyal customer for years and it is her favorite place for lunch. She feels it is a good service and brings vitality to the center.

Louis Wolfson noted he is in support but questions the amount of parking. Jennifer Lynch stated she wants to see Sweet Basil be successful but they should make sure there is sufficient parking. Jeff Cristella encouraged the Board to approve the application. He feels it is a great asset to the town.

Paul Iantosca, President of the Needham Save Parking Coalition, noted they took a sample vote among the members and it was unanimous they would like Basil's to be open for lunch, get a parking waiver and not have to pay for it. They feel Mr. Becker does a lot for the town. Ms. Goldman, of Warren Street, encouraged support. Heather Goss noted she was in support. She is a patron of the restaurant and walks to it as many others do. Tim McClair stated he is in support of the application. He commented he does not understand how they can be so hard on this man but waive parking for others.

Sumner Fanger, of Oakland Street, stated this is a wonderful place. He commented they are talking about the same spaces that are not available here that will not be available for the theater project. Mr. Ruth stated it is the same area but the theater is a pending matter. Nothing has been decided pertaining to waivers, etc.

Al Pressman stated he enjoys Sweet Basil and supports Mr. Becker. He asked if everyone who opens a restaurant in Needham has to go through the same process. Mr. Ruth informed him they do. Mr. Pressman stated they are all open at lunch and questioned how they could deny Mr. Becker. Mr. Ruth clarified when Sweet Basil opened they put a condition on the restaurant that would only allow them to be open for half the space at lunch and the full space for dinner. Now Mr. Becker wants to eliminate that condition which is why he is here.

Richard Dwyer noted he lives within walking distance. He feels the Board made a mistake ruling against Mr. Becker. He feels he is a tremendous asset and he wholeheartedly supports him. Mr. Jacobs clarified what has been referred to as a mistake was a process issue. Two members voted against the application before and he was one of them. He did so because Mr. Becker asked they make a decision without a professional traffic study and that was a break from precedent. Mr. Jacobs noted everyone needs to show them there is enough parking. Ms. McKnight stated the survey shows there are 24 spaces available and they need 18. There is agreement that the 18 number is probably a little high but they are still in excess of what they need.

Sumner Fanger commented it is sad the town did not look forward when they did the Town Hall as they actually took parking away with the addition. They should have provided underground parking to set an example. He believes they made a mistake in that. The Town Hall should have provided their own parking and leave the on-street spaces for customers. Tom Cunniff noted he is in support of the efforts. Mr. Fanger stated a lot of spaces on Pickering Street are restricted and asked if these were included. Ms. Bonsignore noted they did not include any restricted spaces.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to close the hearing.

A motion was made to grant the requested relief to waive 10 spaces and allow seating to go up to 52 seats at the noon hour. Ms. McKnight reiterated it appears even if they discount some of the parking near Town Hall there are still sufficient spaces available to satisfy the demand for this use.

Upon a motion made by Mr. Warner, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to grant the requested relief to waive 10 spaces and allow seating to go up to 52 seats at the noon hour.

A motion was made to waive the filing fee. Ms. McKnight asked if there was a double filing fee waived and was informed the fee was waived before. Mr. Jacobs noted there was a lot of time from the Planning Department spent on this and it is not minor, but rather a major expansion of parking. He does not see why the fee should be waived. Ms. McKnight agreed with him. The motion was withdrawn.

**8:00 p.m. – Major Project Site Plan Special Permit No. 2010-04: The Mackin Group, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue and 36-58 Dedham Avenue, Needham, MA).** ***Note: This hearing is continued from the September 28, 2010, October 19, 2010, November 1, 2010 and December 7, 2010 Planning Board meetings and will be further continued to the January 18, 2011 Planning Board meeting.***

Mr. Ruth noted they received a letter from Robert Smart requesting an extension to 1/18/11 and that the deadline for the decision be extended to 2/28/11 as far as it is applicable.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to approve the request to extend the action deadline to the end of February, without prejudice.

Mr. Jacobs noted the request to continue the hearing to 1/18/11 and asked is it his understanding that the proponent does not accept the request that it be further continued at this time? Mr. Smart noted that is correct. Mr. Jacobs stated anyone who is in support or objects should be here on 1/18/11 with the understanding it will be further continued. That is correct.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to continue the 8:00 p.m. hearing to 1/18/11 at 8:00 p.m. at the Eliot School with the understanding for those who cannot attend that it will be continued to a meeting in February which will fall before the 2/28/11 action deadline.

**Deliberation: In-Lieu Parking Fee Schedule.**

Ms. McKnight noted she made an attempt at a revised draft. She thought there was some confusion the way it was drafted. It was unclear if it was a By-Law or a regulation. She introduced a new Section 2. The other changes she made were to delete a lot of excess wording, define a few terms and to use terms to define points at which parking is counted in a consistent way. She feels they should start out by saying these regulations are adopted pursuant to

Section 9 of the General Laws under Chapter 40A which are the regulations Planning Boards may adopt in the special permit realm.

She noted there is no substantive change to Section 1. In Section 2, where it speaks of parking waivers there is nothing that actually requires the type of parking studies they have generally required. She feels they should put in what the requirement is to obtain a parking waiver. She noted this is the only place they are setting this out. Ms. McKnight reviewed her draft with her suggestions.

Ms. McKnight noted Section 3 is the calculation. She did make an error in the 7th line. It should be "former parking demand" rather than "existing." She used former in light of the fact this is in the form of a proposal that has its own parking demand.

Mr. Jacobs clarified it is now called total parking demand rather than new. Mr. Warner clarified it is the project parking demand. Ms. Newman feels "total" is clearer than "new". Mr. Jacobs stated in the 2nd definition sentence they should close the parenthesis. A discussion ensued regarding the existing available parking. Ms. McKnight noted there is confusion as to whether the total parking available is on site or owned or leased off site. In the next sentence it says existing available parking is on site. She noted on site in the 2nd sentence should be removed. All agreed.

Mr. Warner thanked Ms. McKnight for her efforts. Mr. Ruth asked if all were comfortable with this draft as the base? This was agreed. Ms. McKnight noted in Section 2, they should change 1, 2, 3 to a, b, c. Mr. Jacobs noted in Section 3, after Fourth, is it 1 or 2? Or if 1 is inapplicable or unavailable? Mr. Ruth stated after 2 they should add "if 1 is inapplicable or unavailable." Mr. Jacobs noted in paragraph 2, they should delete "number of" from the 2nd sentence.

Mr. Ruth noted in Section 2 (c), the limitation is that in the calculation order it says these spaces need to be permitted by the By-Law. If spaces are secured beyond the 300 foot circle of the By-Law, he is not sure they want that limitation. They should strike that paragraph. The other question he has is the maximum number for waivers question. He thinks that is the only outstanding issue.

Ms. McKnight stated all agree the incremental fee that goes from 5 to 7.5 to 10 works better. Mr. Jacobs asked in Section 1, 4th line from the end, what is the purpose of adding "fee"? Ms. McKnight stated it has been called a fee. They are changing payment to fee throughout. She noted they could take "fee" out and all agreed.

Mr. Ruth noted the last issue is the maximum number of spaces to be credited. Ms. McKnight stated a 10 space credit seems the fairest to her. Mr. Jacobs noted he would feel better with a 12 space credit. He does not see that as any more problematic as 10. Mr. Ruth stated he would go for 15 or 12 at a minimum. Otherwise the cap ends up driving down the effect of what they are trying to accomplish. He stated that was not the point of the cap.

Ms. McKnight stated she would compromise at 12. Mr. Warner noted he was happy with 10 or 12.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to adopt the regulation with a credit number of 12 and all other changes discussed.

**Request for Permanent Occupancy Permit and for Partial Release of Surety: Major Project Site Plan Review No. 2007-10: Beth Israel Deaconess Hospital Needham, 148 Chestnut Street, Needham, MA, Petitioner (Property located at 148 Chestnut Street, Needham, MA).**

Roy Cramer stated a couple of twists came up yesterday. All was done except for the traffic signal. They put it in, had some back and forth with engineering and it has been fixed. It was all done and they were ready to ask for a permanent occupancy permit; then 2 issues surfaced. One 40 foot grass strip came in fine but the other 40 foot strip is not so good. The hospital is not really happy but it satisfies the requirement and they will sod it in the spring. This will cost $2,000.

They put in sprinkler heads but somehow they were broken. They replaced them but the water has been shut off so they cannot test them. If the worst case scenario happens, and they do not work, it would cost $750 to replace. They would put 135% of the $2,000 and the $750 amounts to be held in an escrow account. Engineering felt the $750 should be $1,000 and the other was fine.

Mr. Cramer noted Vanasse filed an As-Built for the traffic signal on 12/8/10. No one said anything. He found out from the Planning Director yesterday that Engineering has not reviewed the plans yet. Tony DelGaizo has suggested the town continue to hold $12,000 of the bond monies in escrow until they review the As-Builts. The hospital feels they did the work and filed it. They feel $12,000 is out of line. Mr. Cramer stated one item in the original temporary occupancy permit was a $10,000 item of exterior caulking of outside work. That was done in August 2009. In December 2009, Mr. DelGaizo sent a letter that the work was done satisfactorily and the money could be released.

Yesterday, Building Inspector Dan Walsh spoke with Ms. Newman and raised the issue that he never got a sign off and wanted an affidavit from the architect about that piece of work. Mr. Cramer stated he found this out yesterday at 3:00 p.m. The architect sent Mr. Walsh a letter as the Project Architect was out of town. It was an architect at the same firm who wrote the letter but Mr. Walsh would not accept it. The Project Architect came back at 5:00 p.m. today and wrote the letter. It will be couriered tomorrow morning. This should not be holding up disbursing the escrow funds. The money in the escrow was for the traffic signal. He made several suggestions for compromises.

Ms. Newman suggested they bond all 3 items under a temporary occupancy permit. Engineering could do the final review of the As-Builts then release the $12,000. She suggested they could release all except that now. Mr. Cramer stated they disagree in the sense if they had not filed it they would not be having this discussion.

Ms. McKnight noted the temporary is to May. She asked what if there was some amount for the As-Built plan, say $3,000, in case it does not clear and part of that is released at the next meeting if the As-Built is fine? Mr. Cramer stated every month they have to apply for another temporary and it is a $200 fee each month. Ms. Newman stated they have never given a permanent certificate of occupancy without the project being done. Mr. Cramer reiterated they say it is done and sod is an extra they want to do.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to authorize a temporary certificate of occupancy to 5/31/11 and hold $8,000 releasing $132,000.

**Diminimus Change: Major Project Site Plan Review No. 2008-08: V.S.A., LLC, 1105 Massachusetts Avenue, Suite 11G, Cambridge, MA 02138, Petitioner (Property located at 225 Highland Avenue, Needham, MA).**

George Giunta Jr., representative for the applicant, noted the building at 225 is up and most of the work is done. The contractor did additional work that was not proposed. He noted a few deviations were made. They would like the Board to approve as diminimus. He noted they added sidewalks down Wexford Street where it was not called for. Mr. Jacobs stated he would prefer to review these rather than people doing things and then coming back and saying it is done. He asked what they could do now? It seems backwards. He thinks the contractors have issues when they are doing the work and feel they can deal with it later and the Planning Board will not say anything.

Mr. Giunta Jr. noted the first time he learned was after the As-Built was turned in. He stated it is frustrating for him also. He noted the sidewalk was constructed and has now been taken out. A sidewalk was put in between the 2 driveways, a handicap ramp was not shown on the plan and the same at the corner. Technically these are deviations from the plan. They are required by the By-Law and have to be done. He added 4 handicap spaces that were full size were changed to compact and they added an additional light pole that is not shown on the plan. They felt they needed more light. The handicap spaces were adjusted to provide for a van ramp.

Ms. McKnight asked if it took away from the landscaping? Mr. Giunta Jr. clarified they did not take away. They actually added landscaping around the side of the building and around the front which previously was not proposed. Mr. Jacobs state he would like to know if the abutter is concerned with the additional light. He would like to see a letter from the abutter that he is aware of it. He asked Mr. Giunta Jr. if this was obtainable. Mr. Giunta Jr. was not sure. Ms. McKnight noted it casts light on the abutter's parking spaces.

A motion was made to grant diminimus approval for the changes explained to them on the site plan dated 11/17/10. Mr. Jacobs stated he was in favor of the motion but would like to see if Mr. Giunta Jr. could get a letter from the abutter with regard to the additional light. This would give the abutter the opportunity to comment. Mr. Ruth stated they are granting relief but specifically carving out it is without prejudice to the Planning Board's abilities to enforce the strict terms of the original plan and specifically the light.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to approve the plan with the caveat in the Planning Board's decision that this is without prejudice to their right to reopen the hearing if any complaints should arise from this approval.

**Request to establish bond and to authorize issuance of Temporary Occupancy Permit: Major Project Site Plan Review No. 2008-08" V.S.A., LLC, 1105 Massachusetts Ave., Suite 11G, Cambridge, MA 02138, Petitioner (Property located at 225 Highland Avenue, Needham, MA).**

George Giunta Jr., representative for the applicant, noted they are requesting an occupancy permit. There are discrepancies in the ramps that have already been mentioned and the 5 foot span that has already been discussed. It is a relatively low amount to fix but they would rather leave it as is. The pitch is off by 2 inches but it is fully accessible. The contractor estimated the work will be done by spring.

Mr. Warner asked what date they want and suggested 6/1/11. Mr. Giunta Jr. stated they are asking for 5/1/11. He added the landscaping around the transformer is not tall enough. When the weather is better they need to replace it with taller shrubs. He noted the total estimate from the contractor is $4,568. The bond will be for 135% of that or $6,166.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to approve a temporary occupancy permit until 5/1/11 with a bond amount of $6,166.

**Appoint member to Green Community Study Committee.**

After discussion, Ms. McKnight noted she has a lot of material at home on this and would be happy to help.

Upon a motion made by Mr. Warner, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to recommend Ms. McKnight be appointed to the Green Community Study Committee.

**Minutes**

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to approve the minutes of 11/1/10 as drafted with the changes discussed.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:
VOTED: to approve the minutes of 11/16/10 as drafted with the changes discussed.

Upon a motion made by Ms. McKnight, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to reopen and reconsider the vote with regards to the parking waiver rules.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:

VOTED: to add in the parenthetical in Section 3 as permitted by Section XXX of the By-Law or as permitted by the Planning Board in Section 2 (c) of these regulations.

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by the four members present unanimously:

VOTED: to adjourn the meeting at 10:38 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Bruce Eisenhut, Vice-Chairman and Clerk